

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

THE SOUTH CAROLINA STATE
CONFERENCE OF THE NAACP,

and

TAIWAN SCOTT, on behalf of himself and all
other similarly situated persons,

Plaintiffs,

v.

THOMAS C. ALEXANDER, in his official
capacity as President of the Senate; LUKE A.
RANKIN, in his official capacity as Chairman
of the Senate Judiciary Committee; G.
MURRELL SMITH, JR., in his official
capacity as Speaker of the House of
Representatives; CHRIS MURPHY, in his
official capacity as Chairman of the House of
Representatives Judiciary Committee;
WALLACE H. JORDAN, in his official
capacity as Chairman of the House of
Representatives Elections Law Subcommittee;
HOWARD KNAPP, in his official capacity as
interim Executive Director of the South
Carolina State Election Commission; JOHN
WELLS, Chair, JOANNE DAY,
CLIFFORD J. EDLER, LINDA MCCALL,
and SCOTT MOSELEY, in their official
capacities as members of the South Carolina
Election Commission,

Defendants.

Case No. 3:21-cv-03302-MGL-TJH-RMG

THREE-JUDGE PANEL

**HOUSE DEFENDANTS' MOTION FOR
RECONSIDERATION OF ORDER
(ECF No. 398)**

Defendants G. Murrell Smith, Jr. (in his official capacity as Speaker of the South Carolina House of Representatives), Chris Murphy (in his official capacity as Chairman of the South Carolina House of Representatives Judiciary Committee), and Wallace H. Jordan (in his official capacity as Chairman of the South Carolina House of Representatives Redistricting Ad Hoc

Committee) (collectively, the “**House Defendants**”), by and through their undersigned counsel, respectfully move for reconsideration of this Panel’s Order (ECF No. 398) denying Plaintiffs’ Motion to Seal (ECF No. 379) pursuant to Federal Rule of Civil Procedure 59(e). In that Order, this Panel instructed Plaintiffs to file their response and exhibits unredacted on the public record. (*See* ECF No. 398). Undersigned counsel has asked Plaintiffs to delay such filing until this Motion for Reconsideration is ruled upon and Plaintiffs agreed.

House Defendants maintain that the first two categories of exhibits discussed by this Panel are covered by the legislative privilege. These are: (1) excerpts of deposition transcript of Thomas Hauger (Ex. 14), Emma Dean (Ex.17), Weston J. Newton (Ex. 18), James H. Lucas (Ex. 20), Wallace H. Jordan (Ex. 22), Chris Murphy (Ex. 46); and (2) exhibits from the depositions of Lucas (Ex. 48); Hauger (Ex. 42); and Murphy (Ex. 47). (*See* ECF No. 398 at 2).

House Defendants have filed two motions on the issue of confidentiality and legislative privilege that have yet to be ruled on. On August 1, 2022, House Defendants filed a motion asking this Panel to confirm the confidentiality designations of deposition testimony and exhibits pursuant to the Confidentiality Order (ECF No. 123) because they are protected from disclosure by the South Carolina Freedom of Information Act (S.C. Code Ann. § 30-4-10 et seq.)¹. (*See* ECF No. 314). In addition, on July 26, 2022, House and Senate Defendants jointly moved for a separate confidentiality order specifically covering legislatively privileged materials. (*See* ECF No. 308). This Panel has not issued Orders on either of these two Motions.

¹ The South Carolina Freedom of Information Act specifically exempts from disclosure “[m]emoranda, correspondence, and working papers in the possession of individual members of the General Assembly or their immediate staffs...” S.C. Code Ann. § 30-4-40(a)(8). This covers legislatively privileged materials.

Because these two Motions remain outstanding and the testimony and exhibits to be filed by Plaintiffs unredacted on the public docket contain legislatively privileged materials, House Defendants ask this Panel to reconsider their ruling on the Plaintiffs' Motion to Seal (ECF No. 379) in order to preserve the legislative privilege.

Respectfully submitted,

s/ Mark C. Moore

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